

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 544B.10 and 546.10(8), the Landscape Architectural Examining Board hereby amends Chapter 1, “Description of Organization,” Chapter 2, “Examinations and Licensing,” and Chapter 4, “Rules of Professional Conduct,” Iowa Administrative Code.

These amendments are a result of the five-year rolling review of administrative rules as outlined in Iowa Code section 17A.7(2). A committee of the Board, including Board members and staff, with the assistance of legal counsel, reviewed Chapters 1, 2, and 4 to identify outdated or redundant references, inconsistencies with statutes, and methods of enhancing efficiencies. The amendments update citations and make general updates. The amendments to Chapter 1 update definitions and rescind rules that are in the uniform rules of the Bureau of Professional Licensing and Regulation. The amendments to Chapter 2 update the rules to reflect the current examination and licensing protocols, including an update of the reinstatement and fee process. The amendments to Chapter 4 update the rules of professional conduct and discipline procedures. Throughout the chapters, the word “registration” in the phrase “certificate of registration” is changed to “licensure” as that is the current term used in the Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2941C** on February 15, 2017. A public hearing was held on March 7, 2017, at 10 a.m. in the Board office, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa. No comments were received from the public. One change from the Notice of Intended Action was made. In rule 193D—2.10(544B,17A), the late renewal fee of \$25, which was inadvertently omitted from the Notice, has been added.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

The Board adopted these amendments on April 25, 2017.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code chapter 544B.

These amendments will become effective July 12, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 193D—1.1(544B,17A) as follows:

193D—1.1(544B,17A) Definitions. As used in these rules, the following definitions of words and terms shall apply:

“Board” means the Iowa landscape architectural examining board.

“CLARB” means the Council of Landscape Architectural Registration Boards.

“Evidence” means any document or record of any kind of drawings, specifications, photographs, diplomas, licensee statements, published data and certified personal statements as may be required as a part of any action on the part of the board. Each item of evidence shall be clearly marked to ensure positive and certain identification. It shall be the entire responsibility of the applicant to satisfy the board as to the sufficiency of the record and the evidence.

“Intern landscape architect” means an individual who is not licensed and has a degree in landscape architecture and is employed under the direct supervision of a professional landscape architect. The initials “I.L.A.” should not be used.

“Landscape Professional landscape architect” means a person who obtains a license and engages in the practice of landscape architecture under the authority of Iowa Code chapter 544B. For the purpose of these rules, a “professional landscape architect” may be referred to as a “landscape architect:” and may use the initials “P.L.A.”

“Landscape Professional landscape architect, retired” means a person who has retired from working as a landscape architect in all states of registration, licensure and who has requested “landscape architect, retired” status on the licensure renewal form, and whose request for “landscape architect, retired” status has been approved by the board. The retired status would become effective on the first

scheduled licensure renewal date. For the purpose of these rules, a “professional landscape architect, retired” may be referred to as a “landscape architect, retired.”

“LARE” means the landscape architecture registration examination.

“PLA” means professional landscape architect.

“P.L.A., retired” means the same as “professional landscape architect, retired.”

“Practice of landscape architecture” means the rendering performance of professional service or offering to render professional service services to clients, including any one or any combination of the professional services defined in Iowa Code section 544B.1 and 193D—subrule 2.2(1) 544B.1(2).

“Years of practical experience” means, for each year of practical experience the applicant has worked performing landscape architectural services, a minimum of 2,080 hours per year.

ITEM 2. Amend rule 193D—1.2(544B,17A), introductory paragraph, as follows:

193D—1.2(544B,17A) Organization and duties. The board consists of five members who are licensed professional landscape architects and two members who are not licensed professional landscape architects and who represent the general public. The board elects annually from its members a chairperson and a vice chairperson. A quorum of the board shall be four members, and all final motions and actions must receive a vote by a majority of a quorum vote the members of the board. The board enforces the provisions of Iowa Code chapter 544B and maintains a roster of all licensed professional landscape architects in the state.

ITEM 3. Amend rule 193D—1.4(544B,17A) as follows:

193D—1.4(544B,17A) Order of business. The chairperson or the chairperson’s designee board administrator shall prepare an agenda listing all matters to be discussed at meetings. A copy of this agenda shall be available to each member of the board. Procedures shall be in accordance with Robert’s Rules of Order.

ITEM 4. Rescind and reserve rules 193D—1.5(22) to 193D—1.9(252J,261).

ITEM 5. Amend rule 193D—1.10(17A) as follows:

193D—1.10(17A) Waivers Interim waivers and variances.

~~1.10(1)~~ Persons who wish to seek waivers or variances from board rules should consult the uniform rules for the division of professional licensing and regulation at 193—Chapter 5.

~~1.10(2)~~ In addition to the provisions of 193—Chapter 5, the following shall apply for interim rulings:

~~a. 1.10(1)~~ The board chairperson, or vice chairperson if the chairperson is not available, may rule on a petition for waiver or variance when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

~~b. 1.10(2)~~ The executive officer shall, upon receipt of a petition that meets all applicable criteria established in 193—Chapter 5, present the request to the board chairperson or vice chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

~~c. 1.10(3)~~ The chairperson or vice chairperson shall reserve the right to hold an electronic meeting of the board when prior board precedent does not clearly resolve the request, input of the board is deemed required and the practical result of waiting until the next regularly scheduled meeting would be a denial of the request due to timing issues.

~~d. 1.10(4)~~ A waiver report shall be placed on the agenda of the next regularly scheduled board meeting and recorded in the minutes of the meeting.

~~e. 1.10(5)~~ This subrule rule on interim rulings does not apply if the waiver or variance was filed in a contested case.

ITEM 6. Rescind and reserve rules 193D—1.11(544B,17A,272C) to 193D—1.13(272C).

ITEM 7. Amend 193D—Chapter 1, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 544B.3, 544B.5, and 544B.15 and chapters 252J, 261, and 272C.

ITEM 8. Rescind and reserve rule **193D—2.1(544B,17A)**.

ITEM 9. Amend rule 193D—2.3(544B,17A) as follows:

193D—2.3(544B,17A) Procedure for processing applications. Each application shall be considered individually by the board. The board authorizes the chairperson to review applications between board meetings. The chairperson will determine if the applications meet the requirements for approval or will need full board review. A personal appearance before the board, if required, shall be at the time and place designated by the board. Failure to supply additional evidence or information within 30 days from the date of the written request from the board, or failure to appear before the board when an appearance is requested, may be considered cause for disapproval of the application. Unless otherwise provided by law, a request for a rehearing before the board shall be filed with the board in accordance with 193—7.39(543,272C). A judicial review can be filed in accordance with Iowa Code section 17A.19.

ITEM 10. Amend rule 193D—2.7(544B,17A) as follows:

193D—2.7(544B,17A) Certificate of licensure. ~~Applicants will be notified by the board of their eligibility or ineligibility.~~ When an applicant has qualified for licensure under this chapter and has paid the required license fee, the secretary shall enroll the applicant's name in the roster of professional landscape architects and issue to the applicant a certificate of licensure signed by the chairperson and vice chairperson of the board.

~~**2.7(1) Payment.** Upon payment of the license fee, the board will issue the certificate of licensure to an eligible professional landscape architect.~~

2.7(2) 2.7(1) License number. The certificate will indicate the license number of the landscape architect which must appear on the professional landscape architect's seal and on all works signed by the professional landscape architect.

~~**2.7(3) 2.7(2) Certificate.** Only one certificate of licensure shall be issued to a professional landscape architect. The certificate shall be displayed in a conspicuous place at the place of employment.~~

ITEM 11. Amend rule 193D—2.8(17A,272C,544B) as follows:

193D—2.8(17A,272C,544B) Renewal of certificates of ~~registration~~ licensure. Certificates of ~~registration~~ licensure expire biennially on June 30. In order to maintain authorization to practice in Iowa, a ~~registrant~~ licensee is required to renew the certificate of ~~registration~~ licensure prior to the expiration date. A ~~registrant~~ licensee who fails to renew by the expiration date is not authorized to practice landscape architecture in Iowa until the certificate is reinstated as provided in rule 193D—2.9(544B,17A).

2.8(1) It is the policy of the board to e-mail to each ~~registrant~~ licensee a notice of the pending expiration date at the ~~registrant's~~ licensee's last-known address approximately one month prior to the date the certificate of ~~registration~~ licensure is scheduled to expire. Failure to receive this notice does not relieve the ~~registrant~~ licensee of the responsibility to timely renew the certificate and pay the renewal fee. A ~~registrant~~ licensee should contact the board office if the ~~registrant~~ licensee does not receive a renewal notice prior to the date of expiration.

2.8(2) If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the ~~registrant~~ licensee failed to satisfy the continuing education as required as a condition for ~~registration~~ licensure. If the basis for denial is pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

2.8(3) When a ~~registrant~~ licensee appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), offer a ~~registrant~~ the licensee the opportunity to

sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant licensee complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the registrant licensee. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant licensee is free to accept or reject the offer. If the offer of settlement is accepted, the registrant licensee will be issued a renewed certificate of registration licensure and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the registrant licensee pursuant to 193—subrule 7.40(1).

2.8(4) The board may notify registrants licensees whose certificates of registration licensure have expired. The failure of the board to ~~provided~~ provide this courtesy notification or the failure of the registrant licensee to receive the notification shall not extend the date of expiration.

2.8(5) A registrant licensee who continues to practice landscape architecture in Iowa after registration licensure has expired shall be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's licensee's application for reinstatement.

2.8(6) Licensees shall notify the board within 30 days of any change of address or business connection.

2.8(7) Retired status. A person who held a registration license as a professional landscape architect, who is retired from the practice of landscape architecture in all states of registration licensure, and who has applied for and has been granted retired status from the board may use the title “professional landscape architect, retired” or “PLA P.L.A., retired.” ~~If the board determines an applicant is eligible, the~~ The retired status would become effective on the first scheduled registration license renewal date. Applicants do not need to reinstate an expired registration license to be eligible for retired status. Applicants may apply for retired status on the renewal forms provided by the board. The board will not provide a refund of biennial registration licensure fees if an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees for either active or inactive status. Licensees with retired status are exempt from the renewal requirement.

a. Permitted practices. ~~Persons registered~~ A person whose license is in retired status may engage in the practices identified in paragraph 2.8(8) “c.” Such ~~persons~~ person may also provide services as a technical ~~experts~~ expert before a court, including pre-litigation preparation, discovery, and testimony, on matters directly related to landscape architectural services provided by such ~~persons~~ person prior to registering with the board in retired status.

b. Exemption. A person whose registration license as a landscape architect has been placed on probation, suspended, revoked, or voluntarily surrendered in connection with a disciplinary investigation or proceeding shall not be eligible for retired status unless the board, upon appropriate application, first reinstates the registration license to good standing.

2.8(8) Inactive status. This subrule establishes a procedure under which a person issued a certificate of registration licensure as a landscape architect may apply to the board to register as inactive. Registration Licensure under this subrule is available to a registrant licensee residing within or outside the state of Iowa who is not using the title “landscape architect” while offering services as a landscape architect. A person eligible to register as inactive may, as an alternative to ~~such registration licensure~~, allow the certificate of registration licensure to lapse. During any period of inactive status, a person shall not engage in the practice of landscape architecture while using the title “landscape architect” or any other title that might imply that the person is offering services as a landscape architect in violation of Iowa Code section 544B.18. The board will continue to maintain a database of persons registered as inactive, including information which is not routinely maintained after a certificate of registration licensure has lapsed through the person’s failure to renew. A person who registers as inactive will accordingly receive a renewal notice if the notice is sent by the board, board newsletters, and other mass communications from the board.

a. Affirmation. The renewal application shall contain a statement in which the applicant affirms that the applicant will not engage in the practice of landscape architecture while using the title “landscape architect” in violation of Iowa Code section 544B.18, without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193D—2.9(544B,17A).

b. Renewal. A person registered as inactive may renew the person’s certificate of ~~registration~~ licensure on the biennial schedule described in 193D—2.8(544B,272C,17A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in 193D—2.10(544B,17A). An inactive certificate of ~~registration~~ licensure shall lapse if not timely renewed.

c. Permitted practices. A person may, while registered as inactive or retired, perform for a client, business, employer, government body, or other entity those services which may lawfully be provided by a person to whom a certificate of ~~registration~~ licensure has never been issued. For an “inactive” ~~registrant~~ licensee, such services may be performed as long as the person does not in connection with such services use the title “landscape architect” or any other title restricted for use only by landscape architects pursuant to Iowa Code section 544B.18 (with or without additional designations such as “inactive”). Restricted titles may be used only by active landscape architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education. A “professional landscape architect, retired” may use the “professional landscape architect, retired” title; however, the person shall inform anyone to whom the person is providing services that the person once held an active landscape architect license but is no longer actively licensed or permitted to practice landscape architecture.

d. Prohibited practices. A person who, while registered as inactive, engages in any of the practices described in Iowa Code section 544B.18 is subject to disciplinary action.

ITEM 12. Amend rule 193D—2.9(544B,17A) as follows:

193D—2.9(544B,17A) Reinstatement.

~~2.9(1)~~ Reinstatement to active status from lapsed status:

a. ~~An individual may reinstate an expired certificate of registration to active status within two years of expiration by:~~

- ~~(1) Paying the reinstatement fee of \$25 per month of expired registration;~~
- ~~(2) Paying the current renewal fee;~~
- ~~(3) Providing a written statement outlining the professional activities of the applicant during the period of nonregistration defined as the practice of landscape architecture in Iowa Code section 544B.1; and~~
- ~~(4) Submitting documented evidence of completion of 12 contact hours of continuing education in health, safety, welfare subjects for each year or portion of a year of expired registration in compliance with requirements in 193D—Chapter 3. The hours reported shall be in addition to the 24 hours in health, safety, welfare subjects which should have been reported on the June 30 renewal date on which the registrant failed to renew. The continuing education hours used for reinstatement to active status may not be used again at the next renewal.~~

~~Out-of-state residents may submit a statement from their resident state’s licensing board as documented evidence of compliance with their resident state’s mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.~~

b. ~~An individual may reinstate to active status a certificate of registration which has been expired for more than two years by:~~

- ~~(1) Paying the reinstatement fee of \$25 per month of expired registration up to a maximum of \$750;~~
- ~~(2) Paying the current renewal fee;~~

~~(3) Providing a written statement outlining the professional activities of the applicant during the period of nonregistration defined as the practice of landscape architecture in Iowa Code section 544B.1; and~~

~~(4) Submitting documented evidence of completion of continuing education as determined by the board. The board shall require no more than 48 hours in health, safety, welfare subjects; however, the hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status.~~

~~Out-of-state residents may submit a statement from their resident state's licensing board as documented evidence of compliance with their resident state's mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.~~

~~The board shall review reinstatement applications on a case-by-case basis and may, at its discretion, require that the applicant take the L.A.R.E. as a prerequisite to reinstatement to active status.~~

2.9(1) An individual may reinstate a lapsed certificate of licensure to active status as follows:

a. Pay the current renewal fee;

b. Pay the reinstatement fee of \$100 plus \$25 per month or partial month of expired licensure up to a maximum of \$750. All applicants for reinstatement shall be assessed the \$100 reinstatement fee. The \$25-per-month fee shall not be assessed if the applicant for reinstatement did not, during the period of lapse, engage in any acts or practices for which an active landscape architect license is required in Iowa. Falsely claiming an exemption from the monthly fee is a ground for discipline; in addition, other grounds for discipline may arise from practicing on a lapsed certificate, license or permit to practice;

c. Provide a written statement outlining the professional activities that the applicant performed in Iowa during the period of nonlicensure. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant; and

d. Submit documented evidence of completion of continuing education based on the licensee's date of licensure.

(1) A professional landscape architect who holds a license in Iowa for less than 12 months from the date of initial licensure shall not be required to report continuing education on the June 30 renewal on which the applicant failed to renew and 12 continuing education hours for each year or portion of a year of expired licensure up to a maximum of 48 continuing education hours; however, the hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status.

(2) A professional landscape architect who holds a license in Iowa for more than 12 months, but less than 24 months from the date of initial licensure, shall be required to report 12 contact hours which should have been reported on the June 30 renewal on which the applicant failed to renew and 12 continuing education hours for each year or portion of a year of expired licensure up to a maximum of 48 continuing education hours; however, the hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status.

(3) A professional landscape architect who holds a license in Iowa for 24 months or more from the date of initial licensure shall be required to report 24 contact hours which should have been reported on the June 30 renewal on which the applicant failed to renew and 12 continuing education hours for each year or portion of a year of expired licensure up to a maximum of 48 continuing education hours; however, the hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status.

(4) All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities and be in compliance with requirements in 193D—Chapter 3. The continuing education hours used for reinstatement may not be used again at the next renewal.

(5) Out-of-state residents may submit a statement from their resident state's licensing board as documented evidence of compliance with their resident state's mandatory continuing education requirements during the period of nonlicensure. The statement shall bear the seal of the licensing board.

Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.

~~2.9(2)~~ Reinstatement to inactive status from lapsed status. An individual may reinstate a lapsed certificate of registration to inactive status as follows:

~~a.~~ Reinstatement fees. The individual shall:

~~(1)~~ Pay the reinstatement fee of \$25 per month of expired registration up to a maximum of \$100 if the application for reinstatement is filed on or before June 30, 2009.

~~(2)~~ Pay the reinstatement fee of \$25 per month of expired registration up to a maximum of \$750 if the application for reinstatement is filed on or after July 1, 2009.

~~b.~~ The individual shall pay the current renewal fee.

~~c.~~ The individual shall provide a written statement in which the individual affirms that the individual has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544B.18 during the period of lapsed registration.

~~2.9(3)~~ 2.9(2) Reinstatement to active status from inactive status or retired status. An individual may reinstate an inactive registration license or retired registration license to an active registration license as follows:

~~a.~~ The individual shall pay the current active registration licensure fee. If the individual is reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active registration licensure fee shall be paid.

~~b.~~ The individual shall submit documented evidence of completion of 24 contact hours (~~16 contact hours in public protection subjects~~) of continuing education in health, safety, and welfare subjects in compliance with requirements in 193D—Chapter 3. The continuing education hours used for reinstatement to active status may not be used again at the next renewal.

~~c.~~ Continuing education for subsequent renewals.

~~(1)~~ At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of registration licensure to active status, the individual shall not be required to report continuing education.

~~(2)~~ At the first biennial renewal date of July 1 that is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of registration licensure to active status, the individual shall report 12 hours of previously unreported continuing education.

~~d.~~ Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544B.1(2) during the period of inactive licensure.

~~2.9(4)~~ 2.9(3) An individual shall not be allowed to reinstate to inactive status from retired status.

2.9(4) The board shall review reinstatement applications on a case-by-case basis and may, at its discretion, require that the applicant take the LARE as a prerequisite to reinstatement to active status.

ITEM 13. Amend rule 193D—2.10(544B,17A) as follows:

193D—2.10(544B,17A) Fee schedule. The appropriate ~~examination fee or examination exemption filing fee~~ shall accompany the application. ~~Filing fees are not refundable.~~

Examination fee	not to exceed \$1000
Initial examination filing fee	\$50
Proctoring fee	\$50
<u>Fees for examination subjects shall be paid directly to the testing service selected by CLARB.</u>	
Examination exemption <u>Exemption</u> fee	\$300
(This certificate of registration licensure is to be effective to the June 30 which is at least 12 months beyond the date of the application.)	
Wall certificate fee	\$50

Wall certificate replacement fee	\$25
Certificate of registration licensure fee	\$15/month
(This certificate of registration licensure is to be effective the day of board action until June 30.)	
Biennial registration licensure fee (active)	\$350
Biennial registration licensure fee (inactive)	\$100
Late renewal fee	<u>\$25</u>
(for renewals postmarked on or after July 1 and before July 30)	
Reinstatement of lapsed registration	not to exceed \$750
“Landscape “Professional landscape architect, retired” status	\$0 (No fee)
Reinstatement of lapsed licensure to active status	<u>\$100 + renewal fee</u> <u>+ \$25 per month</u> <u>or partial month of</u> <u>lapsed licensure; not</u> <u>to exceed \$750</u>
Reinstatement of inactive or retired status to active status	<u>\$350</u>
(If less than 12 months from the next biennial renewal, one-half of the current active licensure fee shall be paid.)	

ITEM 14. Amend **193D—Chapter 4**, title, as follows:

RULES OF PROFESSIONAL CONDUCT AND DISCIPLINE PROCEDURES

ITEM 15. Amend paragraph **4.1(5)“c”** as follows:

c. A professional landscape architect shall comply with the ~~registration~~ licensure laws and regulations governing the landscape architect’s professional practice in any United States jurisdiction.

ITEM 16. Amend paragraph **4.1(6)“b”** as follows:

b. A professional landscape architect shall not sign or seal drawings, specifications, reports or other professional work for which the landscape architect does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of the portions of professional work prepared by the landscape architect’s consultants, ~~registered~~ licensed under this or another professional ~~registration~~ licensure law of this jurisdiction, the professional landscape architect may sign or seal that portion of the professional work if the landscape architect has reviewed that portion, has coordinated its preparation and intends to be responsible for its adequacy.

ITEM 17. Amend paragraph **4.1(6)“d”** as follows:

d. A professional landscape architect shall not engage in conduct involving fraud or wanton disregard of the rights of others. ~~Failure by a licensee to adhere to these rules of conduct shall cause the license to be reviewed by the board and shall, at the discretion of the board, be cause for a reprimand or suspension or revocation of the license.~~

ITEM 18. Amend paragraph **4.1(7)“d”** as follows:

d. Each technical submission to a ~~building official~~ client or any public agency, hereinafter referred to as the official copy, shall contain an information block on its first page or on an attached cover sheet with application of a seal by the professional landscape architect in responsible charge and an information block with application of a seal by each professional consultant contributing to the technical submission. The seal and original signature shall be applied only to a final technical submission. Each official copy of a technical submission shall be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the technical submission. Each information block shall display the seal of the individual responsible for that portion of the technical submission. The area of responsibility for each sealing professional shall be designated in the area provided in the information block, so that

responsibility for the entire technical submission is clearly established by the combination of the stated seal responsibilities. The information block shall substantially conform to the sample shown below:

SEAL License Expires:	I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and responsible charge. I am a duly licensed professional landscape architect under the laws of the state of Iowa.
	_____ Printed or typed name <u>or secure electronic signature</u>
	_____ Signature
	_____ Pages or sheets covered by this seal: _____ _____

ITEM 19. Amend paragraph 4.1(7)“e” as follows:

e. The information requested in each information block must be typed or legibly printed in permanent ink or digital signature as defined in or governed by Iowa Code chapter 554D on each official copy. An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the licensee’s responsibility to ensure, prior to affixing an electronic signature to a landscape architecture document, that security procedures are adequate to (1) verify that the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed. The seal implies responsibility for the entire technical submission unless the area of responsibility is clearly identified in the information accompanying the seal.

ITEM 20. Amend subrule 4.2(1) as follows:

4.2(1) Complaints. Any person may file a complaint with the board charging that a licensee may have committed an act that is in violation of applicable law or rules. The complaint shall be written and signed by the complainant and accompanied with substantial evidence indicating when, where, and how the licensee committed the violation. All complaints filed with the board shall be privileged and held confidential pursuant to Iowa Code section 272C.6(4) by all board members, peer review committee members and staff. A person filing a complaint shall receive immunities in accordance with Iowa Code ~~chapter 272C~~ section 272C.8.

ITEM 21. Amend subrule 4.2(2) as follows:

4.2(2) Board-instigated complaints. Upon presentation of evidence by a board member, the board’s staff, or other state agency, the board may determine that a complaint should be ~~formulated to charge that opened and an investigation begun to determine if~~ a licensee may have committed an act that is in violation of applicable law or rules. ~~A majority vote of the board approving a written motion stating the charges and containing evidence as to when, where, and how the violation might have occurred shall constitute a complaint to be processed by the complaint procedure.~~

ITEM 22. Amend rule 193D—4.4(544B,272C) as follows:

193D—4.4(544B,272C) Investigation report of complaints.

4.4(1) Board consideration of report to determine further action. Upon completion of the investigation, the investigator(s) shall prepare for the board’s consideration a report containing the

position or defense of the licensee so the board may determine what further action is necessary. The board may:

- 1- a. Order the matter be further investigated.
- 2- b. Allow the licensee who is the subject of the complaint an opportunity to appear before the designated discipline committee for an informal discussion regarding the circumstances of the alleged violation.
- 3- c. Determine there is no probable cause to believe that a violation has occurred and close the case.
- 4- d. Determine there is probable cause to believe that a violation has occurred.

4.4(2) *Informal discussion.*

a. An informal discussion is intended to provide a licensee an opportunity to share the licensee's account of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A licensee is not required to attend an informal discussion. Because disciplinary investigations are confidential, the licensee may not bring other persons to an informal discussion, but licensees may be represented by legal counsel.

b. Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question-and-answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a licensee who desires to attend an informal discussion must therefore waive the right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A licensee would not waive the right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

c. Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

ITEM 23. Amend rule 193D—4.5(544B,272C) as follows:

193D—4.5(544B,272C) Dispensation. The board shall make findings of fact and conclusions of law and may take one or more of the following actions:

1. to 3. No change.
4. Impose civil penalties, the amount of which shall be set at the discretion of the board but shall not exceed \$1000. Civil penalties may be imposed for any of the disciplinary violations of Iowa Code section 544B.15 and Iowa Code sections 272C.9(2), and 272C.9(3), and 272C.10, and these rules or for repeated offenses.
5. to 10. No change.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/17.